

fail to meet the minimum permanent capital adequacy standard established under §615.5205 for that period. This limitation shall not apply to the payment of noncash patronage refunds by any institution exempt from Federal income tax if the entire refund paid qualifies as permanent capital at the issuing institution. Any System institution subject to Federal income tax may pay patronage refunds partially in cash if the cash portion of the refund is the minimum amount required to qualify the refund as a deductible patronage distribution for Federal income tax purposes and the remaining portion of the refund paid qualifies as permanent capital.

[53 FR 39247, Oct. 6, 1988, as amended at 53 FR 40046, Oct. 13, 1988]

**§615.5216 [Reserved]**

**Subpart I—Issuance of Equities**

SOURCE: 53 FR 40046, Oct. 13, 1988, unless otherwise noted.

**§615.5220 Capitalization bylaws.**

(a) The board of directors of each System bank and association shall, pursuant to section 4.3A of the Farm Credit Act of 1971 (Act), adopt capitalization bylaws, subject to the approval of its voting shareholders that set forth:

(1) Classes of equities and the manner in which they shall be issued, transferred, converted and retired;

(2) For each class of equities, a description of the class(es) of persons to whom such stock may be issued, voting rights, dividend rights and preferences, and priority upon liquidation, including rights, if any, to share in the distribution of the residual estate;

(3) The number of shares and par value of equities authorized to be issued for each class of equities. However, the bylaws need not state a number or value limit for these equities:

(i) Equities that are required to be purchased as a condition of obtaining a loan, lease, or related service.

(ii) Non-voting stock resulting from the conversion of voting stock due to repayment of a loan.

(iii) Non-voting equities that are issued to an association's funding bank

in conjunction with any agreement for a transfer of capital between the association and the bank.

(iv) Equities resulting from the distribution of earnings.

(4) For Farm Credit Banks, agricultural credit banks (with respect to loans other than to cooperatives), and associations, the percentage or dollar amount of equity investment (which may be expressed as a range within which the board of directors may from time to time determine the requirement) that will be required to be purchased as a condition for obtaining a loan, which shall be not less than, 2 percent of the loan amount or \$1,000, whichever is less;

(5) For banks for cooperatives and agricultural credit banks (with respect to loans to cooperatives), the percentage or dollar amount of equity or guaranty fund investment (which may be expressed as a range within which the board may from time to time determine the requirement) that serves as a target level of investment in the bank for patronage-sourced business, which shall not be less than, 2 percent of the loan amount or \$1,000, whichever is less;

(6) The manner in which equities will be retired, including a provision stating that equities other than those protected under section 4.9A of the Act are retireable at the sole discretion of the board, provided minimum permanent capital adequacy standards established in subpart H of this part are met;

(7) The manner in which earnings will be allocated and distributed, including the basis on which patronage refunds will be paid, which shall be in accord with cooperative principles; and

(8) For Farm Credit banks, the manner in which the capitalization requirements of the Farm Credit Bank shall be allocated and equalized from time to time among its owners.

(b) The board of directors of each service corporation (including the Farm Credit Leasing Services Corporation) shall adopt capitalization bylaws, subject to the approval of its voting shareholders, that set forth the requirements of paragraphs (a)(1), (a)(2), and (a)(3) of this section to the extent applicable. Such bylaws shall also set forth the manner in which equities will

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be retired and the manner in which earnings will be distributed.

[53 FR 40046, Oct. 13, 1988, as amended at 62 FR 4446, Jan. 30, 1997; 63 FR 39227, July 22, 1998; 66 FR 16844, Mar. 28, 2001]

### §615.5230 Implementation of cooperative principles.

(a) Voting stockholders of Farm Credit banks and associations shall be accorded full voting rights in accordance with cooperative principles, including those set forth in §611.350 of this chapter. Except as otherwise required by statute or regulation, and except as modified by paragraphs (b) and (c) of this section, the voting rights of each voting shareholder are as follows:

(1) Each voting stockholder of a Farm Credit Bank has only one vote that is assigned a weight proportional to the number of that association's voting stockholders and has the right to vote in the election of each stockholder-elected director and to cumulate such votes and distribute them among the candidates in the stockholder's discretion, except that cumulative voting for directors may be eliminated if 75 percent of the associations that are stockholders of the Farm Credit Bank vote in favor of elimination. In a vote to eliminate cumulative voting, each association shall be accorded one vote.

(2) Each voting stockholder of an agricultural credit bank has only one vote, unless another voting scheme has been approved by the Farm Credit Administration.

(3) Each voting stockholder of an association or bank for cooperatives has only one vote, regardless of the number of shares owned or the number of loans outstanding. Unless regional election of directors is provided for in the bylaws pursuant to §615.5230(b), each voting stockholder of an association or bank for cooperatives has the right to vote in the election of each stockholder-elected director. Unless otherwise provided in the capitalization bylaws, each voting stockholder of an association or bank for cooperatives is allowed to cumulate such votes and distribute them among the candidates in the stockholder's discretion. Cumulative voting is not allowed in the re-

gional election of stockholder-elected directors.

(b) The regional election of stockholder-elected directors is only permitted under the following conditions:

(1) A bylaw establishing regional elections is approved by a majority of voting stockholders, voting in person or by proxy, prior to implementation.

(2) The bylaw provides that the use of regional election of stockholder-elected directors does not prevent all voting stockholders of the institution, regardless of the region where they reside or conduct agricultural or aquatic operations, from voting in any stockholder vote to remove a director.

(3) There are an approximately equal number of voting stockholders in each of the institution's voting regions. Regions will have an approximately equal number of voting stockholders if the number of voting stockholders in any one region does not exceed the number of voting stockholders in any other region by more than 25 percent. At least once every 3 years, the institution must count the number of voting stockholders in each region and, if the regions do not have an approximately equal number of stockholders, the regional boundaries must be adjusted to achieve such result.

(4) An institution may provide for more than one director to represent a region. Institutions providing for more than one director to represent a region will determine the equitability of the regions by dividing the number of voting stockholders in that region by the number of director positions representing that region, and the resulting quotient shall be the number that is compared to the number of voting stockholders in other regions.

(5) Each voting stockholder is accorded the right to vote in the election of each stockholder-elected director for his or her region.

(c) Each equityholder of each institution shall be equitably treated in the operation of the institution.

(1) Each issuance of preferred stock (other than preferred stock outstanding on October 5, 1988, and stock into which such outstanding stock is converted that has substantially similar preferences) shall be approved by a majority of the shares voting of each